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March 17, 2005

EX PARTE - VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Ex Parte Letter
Level 3 Petition for Forbearance, CC Docket No. 03-266
IP-Enabled Services, WC Docket No. 04-36**

Dear Ms. Dortch:

Constant Touch Communications, LLC, Qovia, Inc., VoEx, Inc., and VoicePulse Inc. (together, “VoIP Innovators”) submit this letter to support the Petition for Forbearance (the “Petition”) filed by Level 3 Communications LLC’s (“Level 3”) in the docket referenced above.¹ Companies on the leading edge of developing and deploying IP-enabled products need the Commission to remove immediately the legal uncertainty that is restraining the integration of exciting new communications products with the public switched telephone network (“PSTN”). Granting the Petition and specifying that cost-based reciprocal compensation applies to the exchange of IP-PSTN (and certain PSTN-IP) traffic between carriers, rather than the above-cost access charge regime, will provide the legal certainty needed to permit greater interoperability between IP networks and the PSTN. The VoIP Innovators therefore urge the Commission to take action now and grant the Petition.

In order to deliver their products to the vast majority of communications end users who are only connected to the PSTN, the new IP-enabled service providers need traditional PSTN carriers. Yet in the vacuum that exists today, many traditional telecommunications carriers are reluctant to contract with IP-enabled service providers. By directing threats and lawsuits at traditional PSTN carriers who dare to connect IP networks to the PSTN, the incumbents are effectively preventing the migration of the stand-alone PSTN to an interoperable IP/PSTN communications network.

¹ See Petition for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of 47 U.S.C. § 251(g), Rule 51.701(b)(1), and Rule 69.5(b), WC Docket 03-266 (filed Dec. 23, 2003). If granted, the Petition will prevent local exchange carriers (“LECs”) from imposing access charges on certain Internet Protocol (“IP”) traffic that utilizes the PSTN for a portion of the traffic’s routing.

The incumbents are most likely wielding their monopolies, and deep pockets, in this manner to hamstring what promises to be exciting new competition in the converged communications marketplace. The VoIP Innovators are providing unique and exciting communications products to their customers—often including features that are not available on the PSTN and/or PSTN-type services that are available at much lower rates. For example, VoEx's converged voice and data network offers advanced call applications such as IP Trunking and managed voice services applications such as IP Centrex for large business and university customers. VoicePulse's broadband phone service includes numerous special features which are not available with traditional phone service – Multi-ring, Call Filters, Find-Me, Anonymous Call Block, Telemarketer Block and Do Not Disturb with schedule/prompting. These features and all “regular” features such as Caller ID with name, Call Waiting, Call Forwarding, Call Return, Three-way Calling, Voicemail with email notification and Call Transfer are provided at no additional charge to the consumer. In addition, VoicePulse has announced plans to add video service to its VoIP offering by 2006. Qovia customers can use its VoIP Monitoring and Management system to ensure that the call quality and reliability of VoIP phone systems meets or even exceeds “traditional” telephony systems while allowing consumers and enterprises to do more via their phones – all at a lower cost.

IP-enabled services providers are also meeting the needs of certain communities that may have been neglected by traditional incumbents. For example, Constant Touch Communications, LLC in Hawaii is the first VoIP bypass carrier in Hawaii, Guam and Saipan offering Local Loop Bypass, bringing residents of these areas a low-price, high-quality long distance service alternative.

Granting the Petition would provide clarity needed by traditional PSTN providers on one issue—intercarrier compensation—under existing rules. It will not prejudge comprehensive intercarrier compensation reform or the numerous issues pending in the Commission’s IP-enabled Services NPRM. The VoIP Innovators need the Commission to grant the Petition now to ensure that their customers can connect to the millions of end users that use the PSTN. Affirming that reciprocal compensation—not above-cost access charges—applies to the exchange of IP-PSTN (and certain PSTN-IP) traffic would create the certainty necessary for traditional carriers to serve providers of IP-enabled service.

Although this clarification would only last for the interim period until the Commission addresses holistic intercarrier compensation reform in Docket No. 01-92 and adopts new rules, it is no less important than permanent intercarrier compensation reform. Clarification of the appropriate intercarrier compensation rate is needed NOW to allow competitive carriers to enter into agreements with other carriers for the exchange of IP-enabled traffic at cost-based rates. The clarification in turn will increase the interoperability of the PSTN with IP networks, and speed delivery of the exciting new services and features made possible with IP technology. Competition by IP-enabled service providers will in turn drive down prices in the

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communications market, and will lead to enhanced deployment of new services and technologies, further benefiting American consumers.

Respectfully,

/s/

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Communications, LLC, Qovia, Inc.,
VoEx, Inc., and VoicePulse Inc.